

CHAPTER 35

(SB 192)

AN ACT relating to public finance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 58.190 is amended to read as follows:

- (1) *As used in this section, "lease" has the same meaning as in KRS 65.940.*
- (2) Any action challenging the validity *or enforceability* of:
- (a) Any ordinance or resolution adopted by any governmental agency *approving the issuance of*~~electing to issue~~ bonds, ~~or~~ notes, *or leases; or* ~~under this chapter or any other chapter of the Kentucky Revised Statutes,~~
- (b) *Any bond, note, or lease approved by an ordinance or resolution;*
- shall be brought within thirty (30) days from the date on which notice of the adoption of ~~the~~~~said~~ ordinance or resolution is published in accordance with KRS Chapter 424. ~~and~~
- (3) If ~~the~~~~such~~ action challenging the validity *or enforceability* of *the ordinance, resolution, bond, note, or lease*~~same~~ is not brought within ~~the~~~~such~~ time *provided by subsection (2) of this section, the*~~such~~ action shall be forever barred.

➔Section 2. KRS 65.942 is amended to read as follows:

- (1) (a) The governing body of a governmental agency may approve by ordinance, order, or resolution and may execute, perform, and make payments under a lease with any person, to acquire or construct personal property or real property for any public purpose.
- (b) The lease may be on the terms and conditions that are deemed appropriate by the governing body.
- (c) Leases may be payable in whole or in part from taxes and may be obligations of the governmental agency for the entire term of the lease or for a period that does not exceed one (1) year.
- (d) Leases may contain an option or options to renew or extend the term and may be made payable from a pledge of all or any part of any revenues, funds, or taxes or any combination of any revenues, funds, or taxes, which are available to the governmental agency for its public purposes.
- (2) (a) A governmental agency may pledge any revenues or taxes as security for payment under leases, and the leases may provide that the governmental agency may terminate its obligations under the lease at the expiration of each year during the term of the lease.
- (b) A governmental agency may pledge any revenue or taxes as security for payment under a lease regardless of any right to terminate.
- (c) The lease may provide for the payment of interest on the unpaid amount of the lease price at a rate, rates, or method of determining rates and may contain prepayment provisions, termination penalties, and other provisions determined by the governing body of the governmental agency.
- (3) (a) Prior to entering into a lease for the financing of the purchase of any personal property or real property, a governmental agency shall comply with other provisions of law regarding the purchase of property for public purposes.
- (b) The lease shall be deemed an instrument for financing and provisions of law regarding purchases of property for public use shall not apply to the lease itself.
- (c) Leases may be entered into on a publicly advertised competitive basis or on a private negotiated basis without advertisement.
- (4) A sinking fund prescribed by KRS 66.081 shall be established for the payment of leases which are not annually renewable and which are payable in whole or in part from taxes and lease payments under those leases shall be made from the sinking fund.

- (5) (a) *Any action challenging the validity or enforceability of any ordinance or resolution adopted by a governmental agency approving a lease shall be brought within thirty (30) days from the date on which notice of the adoption of the ordinance or resolution is published in accordance with KRS Chapter 424.*
- (b) *If the action challenging the validity or enforceability of the ordinance or resolution is not brought within the time provided by paragraph (a) of this subsection, the action shall be forever barred.*

➔Section 3. KRS 58.040 is amended to read as follows:

- (1) Bonds issued pursuant to KRS 58.010 to 58.140 shall be negotiable and shall not be subject to taxation.
- (2) If any officer whose signature or countersignature appears on the bonds or coupons ceases to be an officer before delivery of the bonds, *the officer's*~~his~~ signature or countersignature shall~~nevertheless~~ be valid and sufficient for all purposes~~the same~~ as if *the officer*~~he~~ had remained in office until delivery.
- (3) The bonds shall be sold in a manner and upon the terms as the governmental agency determines *and as provided in Section 4 of this Act.*~~or~~ Any contract for the acquisition of a public project may provide that payment shall be made in bonds.
- (4) The bonds shall be payable solely from the revenue derived from the public project and shall not constitute an indebtedness of the state, county, city, or political subdivision within the meaning of the Constitution.
- (5) It shall be plainly stated on the face of each bond that *the bond*~~it~~ has been issued under the provisions of KRS 58.010 to 58.140 and that *the bond*~~it~~ does not constitute an indebtedness of the governmental agency within the meaning of the Constitution.

➔Section 4. KRS 424.360 is amended to read as follows:

- (1) *Except in the case of:*
- (a) *Bonds issued for the purpose of facilitating the construction, renovation, or purchase of new or existing housing as provided by KRS 58.125; or*
- (b) *Bonds issued and sold pursuant to any section of the Constitution or the Kentucky Revised Statutes providing for the sale of bonds at a private, negotiated sale;*

no sale of general obligation bonds or revenue bonds *of any governmental unit, political subdivision, or agency thereof*~~, except bonds issued for the purpose of facilitating the construction, renovation, or purchase of new or existing housing as set forth in KRS 58.125, of any governmental unit or political subdivision, or agency thereof,~~ shall be made *until*~~except upon newspaper~~ advertisements for bids *are publicized.*~~]~~

- (2) *Advertisements for bids may be publicized by:*
- (a) *Newspaper*~~published for the~~ publication *in the* area constituted by the political subdivision or *governmental*~~government~~ unit and published to afford statewide notice; *or*
- (b) *Posting a notice of sale to a nationally recognized electronic bidding system.* ~~If the bonds are in principal amount of ten million dollars (\$10,000,000) or more, an advertisement for bids shall also be published in a publication having general circulation among bond buyers.]~~

➔Section 5. KRS 103.200 is amended to read as follows:

As used in KRS 103.200 to 103.285:

- (1) "Building" or "industrial building" means any land and building or buildings (including office space related and subordinate to any of the facilities enumerated below), any facility or other improvement thereon, and all real and personal properties, including operating equipment and machinery deemed necessary in connection therewith, whether or not now in existence, which shall be suitable for the following or any combination thereof:
- (a) Any activity, business, or industry for the manufacturing, processing or assembling of any commercial product, including agricultural, mining, or manufactured products, together with storage, warehousing, and distribution facilities in respect thereof;
- (b) Any undertaking involving the construction, reconstruction, and use of airports, mass commuting facilities, ship canals, ports or port facilities, docks or wharf facilities or harbor facilities, off-street parking facilities or of railroads, monorails, or tramways, railway or airline terminals, cable television, mass communication facilities, and related facilities;

- (c) Any buildings, structures, and facilities, including the site thereof and machinery, equipment, and furnishings suitable for use as health-care or related facilities, including without limitation hospitals, clinics, nursing homes, research facilities, extended or long-term care facilities, including housing for the aged or the infirm and all buildings, structures, and facilities deemed necessary or useful in connection therewith;
 - (d) Any nonprofit educational institution in any manner related to or in furtherance of the educational purposes of such institution, including but not limited to classroom, laboratory, housing, administrative, physical educational, and medical research and treatment facilities;
 - (e) Any facilities for any recreation or amusement park, public park, or theme park, including specifically facilities for the use of nonprofit entities in making recreational and cultural benefits available to the public;
 - (f) Any facilities involving manufacturing and service industries which process raw agricultural products, including timber, provide value-added functions, or supply ingredients used for production of basic agricultural crops and products;
 - (g) Any facilities incident to the development of industrial sites, including land costs and the costs of site improvements thereon, such as grading, streets, drainage, storm and sanitary sewers, and other facilities and structures incidental to the use of such site or sites for industrial use;
 - (h) Any facilities for the furnishing of water, if available on reasonable demand to members of the general public;
 - (i) Any facilities for the extraction, production, grading, separating, washing, drying, preparing, sorting, loading, and distribution of mineral resources, together with related facilities;
 - (j) Any convention or trade show facilities, together with all related and subordinate facilities necessary to the development and proper utilization thereof;
 - (k) Any facilities designed and constructed to be used as hotels and/or motels, together with all related and subordinate facilities necessary to the operation thereof, including site preparation and similar facilities;
 - (l) Any activity designed for the preservation of residential neighborhoods, provided that such activity receives approval of the heritage division and insures the preservation of not fewer than four (4) family units;
 - (m) Any activity designed for the preservation of commercial or residential buildings which are on the National Register of Historic Places or within an area designated as a national historic district or approved by the heritage division;~~and~~
 - (n) Any activity, including new construction, designed for revitalization or redevelopment of downtown business districts as designated by the issuer; **and**
 - (o) ***Any use by an entity recognized by the Internal Revenue Service as an organization described in 26 U.S.C. sec. 501(c)(3) in any manner related to or in the furtherance of that entity's exempt purposes where the use would also qualify for federally tax-exempt financing under the rules applicable to a qualified 501(c)(3) bond as defined in 26 U.S.C. sec. 145.***
- (2) "Bonds" or "negotiable bonds" means bonds, notes, variable rate bonds, commercial paper bonds, bond anticipation notes, or any other obligations for the payment of money issued by a city, county, or other authority pursuant to KRS 103.210 to 103.285.
 - (3) "Substantiating documentation" means an independent finding, study, report, or assessment of the economic and financial impact of a project, which shall include a review of customary business practices, terms, and conditions for similar types of projects, both taxable and tax-exempt, in the current market environment.

➔Section 6. KRS 103.2101 is amended to read as follows:

- (1) It shall be the duty of the state local debt officer to review only those projects authorized by KRS 103.200(1) (k), (l), (m), and (n), and only off-street parking facilities, cable television, and mass communication facilities as authorized by KRS 103.200(1)(b), whether by cities, counties, urban-county governments, air boards, or riverport authorities. The Kentucky Private Activity Bond Allocation Committee shall review only those projects to be issued by the Kentucky Economic Development Finance Authority and authorized by KRS 103.200(1) (k), (l), (m), and (n). Such review shall include but need not be limited to the following:

- (a) Whether the project creates long-term economic growth, creates or retains jobs in a previously designated empowerment or enterprise zone, or aids in the prevention or elimination of slums or blight;
 - (b) Whether there is substantiating documentation to demonstrate that the project places an unjustified competitive disadvantage on existing business in the area;
 - (c) Whether there is substantiating documentation to demonstrate that normal commercial financing is unavailable for this project or, if available, at what rates it must be secured and under what terms and conditions;
 - (d) If the project is in accord with the intent of KRS 103.200 to 103.285, this section, and KRS 103.2451; and
 - (e) The project's economic soundness.
- (2) If the committee or the state local debt officer finds that the project does not meet all of the above listed criteria, it shall deny approval of the project until the objections thereto have been met.
 - (3) The committee and the state local debt officer may require the submission of testimony, project data, or any other information deemed appropriate with regard to any project submitted to it for approval.
 - (4) The committee and the state local debt officer, within fourteen (14) days of receiving application, shall notify in writing the agency or unit of government proposing the issuance of bonds, the appropriate county judge/executive, mayor, and school superintendent, and the developers of the project of the date on which the project will be considered by the committee at a public hearing. Any person may attend the hearing and may personally, or through counsel, address the committee with regard to the project and make recommendations to the committee thereon. Notice shall be given to the agency or unit of government proposing to issue the bonds and the developers of the project not less than forty-five (45) days before the date the committee has set for the hearing on the project. The agency or unit of government proposing the issuance of the bonds shall ~~publish notice of the hearing in the manner required by KRS Chapter 424. The agency or unit of government proposing the issuance of the bonds shall require the developer of the project (if it is other than the agency or unit of government) to reimburse the agency or unit of government for the cost of the advertising required herein. A hearing officer may conduct the hearing with a proposed order to the committee or the state local debt officer.~~ ~~not less than thirty (30) days before the date of the hearing.~~ publish notice of the hearing in the manner required by KRS Chapter 424. The agency or unit of government proposing the issuance of the bonds shall require the developer of the project (if it is other than the agency or unit of government) to reimburse the agency or unit of government for the cost of the advertising required herein. A hearing officer may conduct the hearing with a proposed order to the committee or the state local debt officer.
 - (5) The committee and the state local debt officer shall have the right to approve or disapprove any project submitted to it, and over which it has jurisdiction as described in subsection (1) of this section, and no bonds or other evidence of indebtedness for any such project shall be issued until the project has been approved by the committee.
 - (6) When the revenues of the respective local government or school district are negatively impacted by the project, the committee and the state local debt officer shall require submission of a written statement of assurance that the appropriate county judge/executive, mayor, and school superintendent are in agreement with the negotiated financial arrangement. This written statement of assurance shall be used for advisory purposes.
 - (7) The maximum length of any bond authorization under this section shall not exceed the anticipated useful life of the building or equipment purchased or **forty (40)** ~~thirty (30)~~ years, whichever is shorter.

➔ Section 7. KRS 424.130 is amended to read as follows:

- (1) Except as otherwise provided in KRS 424.110 to 424.370 and notwithstanding any provision of existing law providing for different times or periods of publication, the times and periods of publications of advertisements required by law to be made in a newspaper shall be as follows:
 - (a) When an advertisement is of a completed act, such as an ordinance, resolution, regulation, order, rule, report, statement, or certificate and the purpose of the publication is not to inform the public or the members of any class of persons that they may or shall do an act or exercise a right within a designated period or upon or by a designated date, the advertisement shall be published one (1) time only and within thirty (30) days after completion of the act. However, a failure to comply with this paragraph shall not **invalidate any ordinance or resolution or** subject a person to any of the penalties provided by KRS 424.990 unless such failure continues for a period of **fifteen (15)** ~~ten (10)~~ days after notice to comply has been given him by registered letter.
 - (b) When an advertisement is for the purpose of informing the public or the members of any class of persons that on or before a certain day they may or shall file a petition or exceptions or a remonstrance or protest or objection, or resist the granting of an application or petition, or present or file a claim, or

submit a bid, the advertisement shall be published at least once, but may be published two (2) or more times, provided that one (1) publication occurs not less than seven (7) days nor more than twenty-one (21) days before the occurrence of the act or event.

- (c) When an advertisement is for the purpose of informing the public and the advertisement is a notice of delinquent taxes, or notice of the sale of tax claims, the advertisement shall be published either:
1. Once a week for three (3) consecutive weeks; or
 2. One (1) time, preceded by a one-half (1/2) page notice of advertisement the preceding week. The one-half (1/2) page advertisement shall include notice that a list of uncollectible delinquent taxes is also available for public inspection in accordance with KRS 424.330 during normal business hours at the business address of the city or county and on an identified Internet Web site. The advertisement shall include the business address of the city or county and the Uniform Resource Locator (URL) for the Internet Web site where the document can be viewed. The Internet Web site shall be affiliated with the city or county and contain other information about the city or county government. The delinquent tax list shall be posted on the Internet Web site for a minimum of thirty (30) days and shall be updated weekly.

The provisions of this paragraph shall not be construed to require the advertisement of notice of delinquent state taxes which are collected by the state.

- (d) Any advertisement not coming within the scope of paragraph (a), (b), or (c) of this subsection, such as one for the purpose of informing the public or the members of any class of persons of the holding of an election, or of a public hearing, or of an examination, or of an opportunity for inspection, or of the due date of a tax or special assessment, shall be published at least once but may be published two (2) or more times, provided that one (1) publication occurs not less than seven (7) days nor more than twenty-one (21) days before the occurrence of the act or event, or in the case of an inspection period, the inspection period commences.
- (e) If the particular statute requiring that an advertisement be published provides that the day upon or by which, or the period within which, an act may or shall be done or a right exercised, or an event may or shall take place, is to be determined by computing time for the day of publication of an advertisement, the advertisement shall be published at least once, promptly, in accordance with the statute, and the computation of time shall be from the day of initial publication.
- (2) This section is not intended to supersede or affect any statute providing for notice of the fact that an adversary action in court has been commenced.

➔Section 8. KRS 66.310 is amended to read as follows:

- (1) No county may issue bonds which, together with all other net indebtedness of the county plus the principal amount of any outstanding self-supporting obligations, is in excess of one-half of one percent (0.5%) of the value of the taxable property therein, as determined by the next preceding certified assessment, without having first secured the written approval of the state local debt officer. Any other bonds to be issued by any county may be submitted for approval as hereinafter provided. When the fiscal court of any county has petitioned the state local debt officer under KRS 66.320 for assistance in formulating a plan for reorganizing its debt structure, or has received the approval of any issue of county bonds voluntarily as provided in this section, all bonds thereafter issued by the county must be approved as provided in this section.
- (2) Without the approval of the state local debt officer a county may not lease, as lessee, a building or public facility that has been or is to be financed at the county's request or on its behalf through the issuance of bonds by another public body or by a nonprofit corporation serving as an agency and instrumentality of the county for that purpose, unless the bonds, if issued by the county itself as its own general obligations, would be exempt under the provisions of subsection (1). If his or her approval is required, the state local debt officer shall hold a hearing for the purpose of considering the terms of the lease upon the same basis as is provided under subsections (3) and (4) of this section, and interested parties shall have the same right of appeal as is therein provided. This subsection does not apply to leases entered into before July 1, 1964, nor to renewals thereafter of leases entered into before that date, nor to bonds referred to in this subsection if those bonds have been sold prior to that date, whether or not actually delivered to the purchaser or purchasers thereof before that date.

- (3) The state local debt officer shall hold a hearing in accordance with KRS Chapter 13B for the purpose of determining whether any issue of bonds submitted to him or her for approval should be approved or disapproved. The state local debt officer shall provide notice of the hearing to the county judge/executive of the county proposing to issue bonds, and the county judge/executive shall cause a copy of that notice to be published ~~not less than twenty (20) days~~ in advance of the date set for the hearing *as provided in Section 7 of this Act*. Any person having a material interest in the issuance of the bonds shall have an opportunity to be heard and to present evidence at the hearing held by a hearing officer appointed by the state local debt officer. A record of the proceedings of the hearing shall be made, and the state local debt officer shall review the record and prepare a written decision approving or disapproving the issuance of the proposed bonds. The decision shall set forth the findings of fact upon which the state local debt officer bases his or her decision. On the day that the state local debt officer issues a decision, he or she shall mail a copy to the county judge/executive of the county proposing to issue the bonds and to any person who attended the hearing and requested to receive a copy of the decision.
- (4) The state local debt officer shall disapprove the issuance of the proposed bonds if he or she finds that one (1) or more of the following conditions exist:
 - (a) The financial condition and prospects of the county do not warrant a reasonable expectation that interest and principal maturities can be met when due without seriously restricting other expenditures of the county, including the debt service on the other outstanding obligations of the county;
 - (b) The issue of bonds will not serve the best interests of both the county issuing the bonds and a majority of its creditors; or
 - (c) The bonds or the issuance thereof will be invalid.
- (5) If the state local debt officer is petitioned by any county to approve the issuance of bonds to refund outstanding county bonds, and if the state local debt officer is unable to find that the bonds sought to be refunded were in their entirety validly issued, he or she shall nevertheless find that bonds may be issued validly for the purpose of refunding the bonds, in equivalent or lesser par principal amount, provided that the interest rate to be borne by the refunding bonds shall be sufficient to make possible their liquidation within their life at no greater average annual cost to the county than would be required to liquidate, within the same number of years, the portion of the outstanding indebtedness found to be valid at the interest rate borne by it before refunding.
- (6) Within thirty (30) days after the date of a decision by the state local debt officer approving a county's proposal to issue bonds, any interested party or taxpayer of the county *that presented evidence at the hearing required by subsection (3) of this section* may appeal to the Circuit Court of the county proposing to issue the bonds. Appeal shall be taken by filing a complaint with the clerk of the court and serving a copy of the complaint upon the state local debt officer by certified mail, return receipt requested. The fiscal court and, in the case of funding or refunding bonds, the creditors whose claims or bonds are proposed to be funded or refunded, shall be made parties to the appeal. The state local debt officer shall not be named as a party to an appeal under this subsection, but shall be allowed to intervene in the appeal upon his or her motion. Summons shall be served and class representatives designated as provided in the Rules of Civil Procedure. Within thirty (30) days of receipt of the complaint, the state local debt officer shall certify and file a copy of the record of the proceedings and his or her decision with the Circuit Court.
- (7) A county proposing to issue bonds may appeal a decision of the state local debt officer disapproving the issuance of the bonds by filing a complaint with the Franklin Circuit Court within thirty (30) days after the date of the decision. The state local debt officer shall be named as a defendant in an appeal under this subsection. Summons shall be issued and served as provided in the Rules of Civil Procedure. With his or her answer, the state local debt officer shall certify and file a copy of the record of the proceedings and his or her decision.
- (8) Appeals to the Circuit Court shall be advanced on the docket and shall be heard and decided upon the record certified by the state local debt officer. The findings of fact of the state local debt officer shall be final if supported by any substantial evidence; however, if only the question of the validity of the bonds proposed to be funded or refunded is in issue, additional evidence relating to the validity of the bonds may be presented.
- (9) An appeal may be taken from the Circuit Court to the Court of Appeals in the manner provided in the Rules of Civil Procedure.

- (10) If no appeal is taken from the approval of a bond issue by the state local debt officer as provided in this section, the decision as to the legality of the bonds shall be res judicata in any subsequent case or cases raising the question of their legality.
- (11) Record of the approval of bonds as provided in this section shall be made in the minutes of the next meeting of the fiscal court of the county issuing the bonds so approved, and copies of all decisions of the state local debt officer shall be filed with the Secretary of State.
- (12) As used in this section, bonds means bonds and obligations.

➔Section 9. KRS 66.400 is amended to read as follows:

(1) As used in this section:

- (a) *"Bond" has the same meaning as in KRS 66.011 and is issued according to the provisions of KRS 66.011 to 66.191;*
- (b) *"Lease" has the same meaning as in KRS 65.940 and is entered into under the provisions of KRS 65.940 to 65.956; and*
- (c) *"Local government" has the same meaning as in KRS 44.001.*

- (2) Any taxing agency or instrumentality as defined in Chapter IX of the Federal Bankruptcy Act as amended by the Acts of Congress of August 16, 1937, Chapter 657, June 22, 1938, Chapter 575, March 4, 1940, Chapter 41, June 28, 1940, Chapter 438 and acts amendatory and supplementary thereto or acts extending the date of expiration thereof, as the same may be amended or extended from time to time, may file a petition for the composition of its debts and to do all things necessary to comply with the provisions of the Federal Bankruptcy Act. No county shall file a petition as provided in the Federal Bankruptcy Act unless the proposed plan is first approved by the state local debt officer and the state local finance officer, as defined in KRS 68.001. No changes or modifications shall be made in the plan of composition after the filing of the petition without the approval of the state local debt officer and the state local finance officer. The state local debt officer and the state local finance officer shall approve or disapprove the proposed plan of composition or any changes or modifications thereof under the same procedure and for the same reasons as bonds are approved or disapproved under KRS 66.280 to 66.390.

(3) (a) The revenues of a tax adopted:

1. *According to KRS 66.111(1) for the payment of bonds shall be deemed pledged for the payment of the principal of and the premium and interest on the bonds; and*
2. *According to KRS 65.942(2) for the payment of a lease shall be deemed pledged for the payment of the principal and interest portions of a lease payment and any prepayment penalties on a lease;*

whether or not the pledge is stated in the bonds, the lease, or in the proceedings authorizing the bonds or the lease.

- (b) *The holders of all bonds issued and leases entered into shall have a first lien on those tax revenues.*
- (c) *There shall be a statutory lien on the tax revenues pledged in favor of the holders of all bonds issued and leases entered into, effective by operation of law, that shall apply to all outstanding bonds payable from taxes adopted according to KRS 66.111(1) and leases payable from taxes adopted according to KRS 65.942(2), without priority of one (1) bond or lease over another bond or lease, regardless of when the bonds were issued or the lease was entered into.*
- (d) *No filing need be made under the Uniform Commercial Code or otherwise to perfect the lien on the tax revenues.*
- (e) *The pledge of the tax shall constitute a sufficient appropriation, and the tax revenues shall be applied as required by the pledge, without the requirement for further appropriation.*
- (4) *Amounts appropriated for the payment of any obligation that is subject to annual renewal, including but not limited to leases entered into under the provisions of KRS 58.010 to 58.205 or KRS 65.940 to 65.956, shall be deemed pledged for payment according to subsection (3)(a) of this section, and the holders of all bonds issued or leases entered into shall have a first lien on those appropriations commencing on the date of the appropriation.*

- (5) (a) *The public property of any local government, of every character and description, used for government or public purposes, is exempt from seizure by attachment, execution, or other legal process, except as provided in subsections (7) and (8) of this section.*
- (b) *A local government's funds in the hands of its treasurer or a depository shall not be subject to garnishment or other legal process, except as provided in subsections (6), (7), and (8) of this section.*
- (6) (a) *Except for judgments covered under KRS 65.2004, any local government against which final judgment has been rendered for a claim that is not fully covered by insurance may make a motion to the Circuit Court to enter an order for the payment of money damages, in whole or in part, through a periodic payment schedule for a period of time not to exceed ten (10) years.*
- (b) *A court entering an order in response to a motion made by a local government under paragraph (a) of this subsection shall consider the ability of the local government to pay the judgment without a substantial disruption to the essential public services provided by the local government. The court shall consider the following factors in evaluating the motion and in setting a periodic payment schedule:*
1. *The funds available in the local government's current fiscal year and other funds available to the local government to pay the damages in the remainder of the local government's fiscal year during which the final judgment was entered;*
 2. *The total revenues reasonably expected to be collected by the local government in subsequent fiscal years based upon the historical collections in previous fiscal years;*
 3. *The total expenses of the local government in subsequent years for the costs associated with the provision of essential public services, the payment of debt service for the existing obligations of the local government, and any other expenses reasonably necessary for the efficient administration of the local government, including personnel, operation, and maintenance costs associated with existing infrastructure, and new costs which may be reasonably anticipated for the local government; and*
 4. *If the award for damages is an amount that exceeds twenty-five percent (25%) of the total revenues collected by the local government in the immediately preceding fiscal year, the court may also consider any revenue or debt financing options that are reasonably available to the local government that could be employed to help satisfy the judgment.*
- (c) *An order entered by the court establishing a periodic payment schedule shall specify the total amount awarded, the amount of each payment, the interval between payments, and the number of payments to be paid under the order.*
- (d) *Any judgment paid pursuant to the periodic payment schedule established under this subsection shall bear interest accruing from the date final judgment is entered at one-half (1/2) the interest rate provided by KRS 360.040.*
- (e) *Upon petition to the court, the court may modify a periodic payment schedule established in this subsection for good cause shown by the local government. The modification may include changes to the amount of payments, the number of payments, and the period of payments, but in no case shall an adjustment pursuant to this paragraph alter the total amount of damages to be paid, exclusive of interest, in the original order.*
- (7) *Subject to the provisions of subsection (6) of this section, a court may enter an order providing for the attachment, execution, garnishment, or seizure by other legal process of public property, including moneys, of a local government only upon a finding that:*
- (a) *The local government has failed to comply with an order, modified order, or judgment entered by the court as provided by subsection (6) of this section or KRS 65.2004;*
 - (b) *After a period of twenty-four (24) months, the local government did not petition the court to enter an order for the payment of money damages, in whole or in part, through a periodic payment schedule as provided by subsection (6) of this section or KRS 65.2004 and has not paid in full the total damages awarded under the judgment; or*
 - (c) *The judgment for damages was not of the type that permitted the court to enter an award of periodic damages, and the local government has failed to pay the damages due in full after the passage of twenty-four (24) months from the entry of a final judgment.*

- (8) (a) *Any order providing for the attachment, execution, garnishment, or seizure by other legal process of public property, including moneys, of a local government shall not impair the ability of the local government to continue to provide essential services to the public, including the payment of key personnel needed for the provision of those services and those employees necessary for the collection of revenues on behalf of the local government.*
- (b) *In making a determination as to the appropriate extent of an order under this subsection, a court shall consider but shall not be limited to the factors provided in subsection (6)(b) of this section.*
- (9) *Nothing in this section shall:*
- (a) *Bar the pursuit of any other remedies that exist to enforce a judgment under state law; or*
- (b) *Prohibit a local government and a judgment creditor from entering into an agreement for the payment of damages under terms and conditions that differ from the remedies and process established under this section.*

Signed by Governor March 19, 2019.